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FEDERAL HOUSING FINANCE AGENCY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COMMERCE HOME MORTGAGE, LLC,

Plaintiff,

v.

FEDERAL HOME LOAN BANK OF SAN
FRANCISCO, a federally chartered
corporation; and DOES 1 through 10,
inclusive,

Defendants, and

FEDERAL HOUSING FINANCE
AGENCY,

Defendant-Intervenor.

Case No. _____

**DEFENDANT-INTERVENOR
FEDERAL HOUSING FINANCE
AGENCY'S NOTICE OF REMOVAL
OF CIVIL ACTION UNDER 28 U.S.C.
SECTION 1442**

1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
2 DISTRICT OF CALIFORNIA, PLAINTIFF AND ITS ATTORNEYS OF RECORD,
3 DEFENDANT AND ITS ATTORNEY OF RECORD:

4 PLEASE TAKE NOTICE that Intervenor Federal Housing Finance Agency (“FHFA”)
5 hereby removes this civil action from the Superior Court of the State of California for the County
6 of San Francisco to the United States District Court for the Northern District of California
7 pursuant to 28 U.S.C. § 1442(a)(1).

8 **JURISDICTIONAL STATEMENT**

9 On July 22, 2021, the Superior Court granted FHFA’s motion to intervene in this action
10 and in July 23, 2021, FHFA filed its Answer in Intervention. FHFA, as a federal agency, has the
11 right to remove this Action and this Court has jurisdiction under 28 U.S.C. § 1442(a)(1).

12 **BASIS FOR REMOVAL**

13 **I. Procedural History**

14 On January 15, 2021, Plaintiff Commerce Home Mortgage, LLC (“Plaintiff”) filed this
15 action in the Superior Court of the State of California for the County of San Francisco. On
16 March 9, 2021, Defendant Federal Home Loan Bank of San Francisco (“FHLB-SF”) removed
17 this action to this Court. On March 26, 2021, Plaintiff filed a motion to remand under 28 U.S.C.
18 § 1447. On May 24, 2021, this Court granted Plaintiff’s motion to remand.

19 Upon remand, Plaintiff filed a First Amended Complaint on June 8, 2021, a true and
20 correct copy of which is attached hereto as **Exhibit A**. On June 28, 2021, FHFA filed a motion
21 to intervene in the case. On July 22, 2021, the court granted FHFA’s motion to intervene
22 (“Order Granting FHFA’s Intervention”). On July 23, 2021, FHFA served Notice of Entry of the
23 Order Granting FHFA’s Intervention, a true and correct copy of which is attached hereto as
24 **Exhibit B**. Also on July 23, 2021, FHFA filed its Answer in Intervention, a true and correct
25 copy of which is attached hereto as **Exhibit C**. This Notice of Removal, filed one business day
26 later, is timely.

1 **II. Removal is Proper Under 28 U.S.C. § 1442(a)(1)**

2 Under 28 U.S.C. § 1442(a), “[a] civil action ... that is commenced in a State court and
3 that is against or directed to [the United States or any agency thereof] may be removed by them
4 to the district court of the United States for the district and division embracing the place wherein
5 it is pending.” FHFA is a federal agency established by the Housing and Economic Recovery
6 Act of 2008, Pub. L. No. 110-289, 122 Stat. 2654. Therefore, FHFA, in its capacity as regulator
7 and as Intervenor-Defendant in this action, may remove this action to federal court, and this
8 Court has jurisdiction over the action.

9 WHEREFORE, FHFA prays that the state court action now pending in the Superior
10 Court for the State of California for the County of San Francisco be removed to this United
11 States District Court for the Northern District of California.

12
13 Dated: July 26, 2021

Respectfully submitted,

14 ARNOLD & PORTER KAYE SCHOLER LLP

15 By: /s/Douglas A. Winthrop
16 DOUGLAS A. WINTHROP

17 *Attorneys for Defendant-Intervenor*
18 Federal Housing Finance Agency
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